

Original sponsor: Resources Committee

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1 IN THE HOUSE

BY THE RESOURCES COMMITTEE

2 SENATE CS FOR CS FOR HOUSE BILL NO. 126

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 EIGHTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the regulation of entry into Alaska  
7 commercial fisheries; and providing for an effective  
8 date."

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

10 \* Section 1. AS 16 is amended by adding a new chapter to read:

11 CHAPTER 43. REGULATION OF ENTRY INTO

12 ALASKA COMMERCIAL FISHERIES.

13 ARTICLE 1. CREATION OF THE ALASKA COMMERCIAL FISHERIES

14 ENTRY COMMISSION.

15 Sec. 16.43.010. PURPOSE AND FINDINGS OF FACT. (a) It is the  
16 purpose of this chapter to promote the conservation and the sustained  
17 yield management of Alaska's fishery resource and the economic health  
18 and stability of commercial fishing in Alaska by regulating and con-  
19 trolling entry into the commercial fisheries in the public interest and  
20 without unjust discrimination.

21 (b) The legislature finds that commercial fishing for fishery  
22 resources has reached levels of participation, on both a statewide and  
23 an area basis, that have impaired or threaten to impair the economic  
24 welfare of the fisheries of the state, the overall efficiency of the  
25 harvest, and the sustained yield management of the fishery resource.

26 Sec. 16.43.020. ALASKA COMMERCIAL FISHERIES ENTRY COMMISSION.

27 (a) There is established the Alaska Commercial Fisheries Entry Commis-  
28 sion as a regulatory and quasi-judicial agency of the state. The  
29 commission consists of three members appointed by the governor and

1 confirmed by the legislature in joint session.

2 (b) The governor shall designate one member of the commission as  
3 chairman of the commission. The member designated shall serve as  
4 chairman for a term of two years, and may be designated chairman for  
5 successive two-year terms.

6 Sec. 16.43.030. TERM OF OFFICE; VACANCY. (a) The members of the  
7 commission shall be appointed for terms of four years. Initial appoint-  
8 ments shall be as follows: one member for two years, one member for  
9 three years, and one member for four years. The governor may remove  
10 a commissioner from office for cause including but not limited to  
11 incompetence, neglect of duty or misconduct in office. A commissioner,  
12 to be removed for cause, shall be given a copy of the charges against  
13 him and afforded an opportunity to be publicly heard in person or by  
14 counsel in his own defense upon not less than 10 days notice. If a  
15 commissioner is removed for cause, the governor shall file with the  
16 lieutenant governor a complete statement of all charges made against  
17 the commissioner and his findings based on the charges, together with  
18 a complete record of the proceedings.

19 (b) A vacancy on the commission shall be filled by appointment by  
20 the governor and the appointment shall be confirmed by the legislature  
21 in joint session. A member selected to fill a vacancy shall hold office  
22 for the balance of the full term for which his predecessor on the  
23 commission was appointed.

24 (c) A vacancy on the commission does not impair the authority of  
25 a quorum of commissioners to exercise all the powers and perform all  
26 the duties of the commission.

27 Sec. 16.43.040. QUORUM. Two members of the commission constitute  
28 a quorum for the transaction of business, for the performance of a duty  
29 or for the exercise of a power of the commission.

1           Sec. 16.43.050. QUALIFICATIONS. The commission shall consist  
2 of three members with a broad range of professional experience, none  
3 of whom has a vested economic interest in an interim-use permit,  
4 entry permit, commercial fishing vessel or gear, or in any fishery  
5 resource processing or marketing business.

6           Sec. 16.43.060. COMPENSATION. Members of the commission are in  
7 the exempt service and shall receive an initial annual salary at range  
8 28, step B of the state pay plan, subject to merit raises as approved  
9 by the governor.

10          Sec. 16.43.070. LEGAL COUNSEL. The attorney general is the legal  
11 counsel for the commission. He shall advise the commission in legal  
12 matters arising in the discharge of its duties and represent the com-  
13 mission in suits to which it is a party. However, the commission may  
14 retain additional legal counsel as appropriate.

15          Sec. 16.43.080. EMPLOYMENT OF PERSONNEL. (a)  
16 The commission may employ those persons necessary to carry out the  
17 purposes of this chapter. Employees of the commission are in the  
18 exempt service under AS 39.25.110.

19          (b) In addition to its staff of regular employees, the commission  
20 may contract for and engage the services of consultants, experts and  
21 hearing officers as necessary.

22           ARTICLE 2. POWERS AND DUTIES OF THE COMMISSION.

23          Sec. 16.43.100. GENERAL POWERS. (a) To accomplish the purposes  
24 set out in sec. 10 of this chapter the commission shall:

25           (1) regulate entry into the commercial fisheries for all  
26 fishery resources in the state;

27           (2) establish priorities for the application of the provi-  
28 sions of this chapter to the various commercial fisheries of the state;

29           (3) establish administrative areas suitable for regulating

1 and controlling entry into the commercial fisheries;

2 (4) establish, for all types of gear, the maximum number of  
3 entry permits for each administrative area;

4 (5) designate, when necessary to accomplish the purposes  
5 of this chapter, particular species for which separate interim-use  
6 permits or entry permits will be issued;

7 (6) establish qualifications for the issuance of entry  
8 permits;

9 (7) issue entry permits to qualified applicants;

10 (8) issue interim-use permits as provided in secs. 210 - 220  
11 of this chapter;

12 (9) establish, for all types of gear, the optimum number of  
13 entry permits for each administrative area;

14 (10) administer the buy-back program provided for in secs.  
15 310 - 320 of this chapter to reduce the number of outstanding  
16 entry permits to the optimum number of entry  
17 permits;

18 (11) provide for the transfer and reissuance of entry permits  
19 to qualified transferees;

20 (12) provide for the transfer and reissuance of entry permits  
21 for alternative types of legal gear, in a manner consistent with the  
22 purposes of this chapter;

23 (13) administer the collection of the annual fees provided  
24 for in sec. 160 of this chapter.

25 (b) The commission may do all things necessary to the exercise of  
26 its powers under this chapter, whether or not specifically designated  
27 in this chapter.

28 Sec. 16.43.110. REGULATIONS AND HEARING PROCEDURES. (a) The  
29 commission may adopt regulations, consistent with law, necessary

1 or proper in the exercise of its powers or for the performance of its  
2 duties under this chapter.

3 (b) The commission shall adopt regulations, consistent with due  
4 process of law, which govern practice and procedure and the conduct of  
5 all investigations, hearings and proceedings which it holds.

6 (c) Common law rules of evidence apply to investigations, hearings  
7 and proceedings before the commission, except when the commission deter-  
8 mines that their application is not required in order to assure fair  
9 treatment of all parties and that the evidence is relevant and of the  
10 sort on which responsible persons are accustomed to rely in the conduct  
11 of serious matters.

12 (d) The commission, each commissioner or an employee authorized  
13 by the commission may administer oaths, certify to all official acts,  
14 and issue subpoenas and other process to compel the attendance of  
15 witnesses and the production of testimony, records, papers, accounts  
16 and documents in an inquiry, investigation, hearing, or proceeding  
17 before the commission in any part of the state. The commission may  
18 petition a court to enforce its subpoenas or other process.

19 Sec. 16.43.120. APPLICATION OF ADMINISTRATIVE PROCEDURE ACT.

20 (a) The administrative adjudication procedures of the Administrative  
21 Procedure Act (AS 44.62) do not apply to adjudicatory proceedings of  
22 the commission except that final administrative determinations by the  
23 commission are subject to judicial review as provided in AS 44.62.560 -  
24 44.62.570.

25 (b) AS 44.62.010 - 44.62.320 and 44.62.640 apply to regulations  
26 adopted by the commission.

27 ARTICLE 3. REQUIREMENTS FOR ENTRY PERMITS.

28 Sec. 16.43.140. PERMIT REQUIRED. (a) After January 1, 1974,  
29 no person may operate gear in the commercial taking of fishery

1 resources without a valid entry permit or a valid interim-use permit  
2 issued by the commission.

3 (b) A permit is not required of a crewman or other person assist-  
4 ing in the operation of a unit of gear engaged in the commercial taking  
5 of fishery resources as long as the holder of the entry permit or the  
6 interim-use permit for that particular unit of gear is at all times  
7 present and actively engaged in the operation of the gear.

8 (c) A person may hold more than one interim-use or entry permit  
9 issued or transferred under this chapter only for the following pur-  
10 poses:

- 11 (1) fishing more than one type of gear;
- 12 (2) fishing in more than one administrative area;
- 13 (3) harvesting particular species for which separate interim-  
14 use or entry permits are issued.

15 Sec. 16.43.150. TERMS AND CONDITIONS OF ENTRY PERMIT; ANNUAL  
16 RENEWAL. (a) Each entry permit authorizes the permittee to operate  
17 a unit of gear within a specified administrative area.

18 (b) The holder of an entry permit shall have the permit in his  
19 possession at all times when engaged in the operation of gear for which  
20 it was issued.

21 (c) Each entry permit is issued for a term of one year and is  
22 renewable annually.

23 (d) Failure to renew an entry permit for a period of two years  
24 from the date of last renewal shall result in a forfeiture of the entry  
25 permit to the commission, except as waived by the commission for good  
26 cause.

27 (e) An entry permit constitutes a use privilege which may be  
28 modified or revoked by the legislature without compensation.

29 (f) An entry permit shall survive the death of the holder.

1 (g) An entry permit may not be:

2 (1) pledged, mortgaged, or encumbered in any way;

3 (2) transferred with any retained right of repossession or  
4 foreclosure; or

5 (3) attached, distrained, or sold on execution of judgment  
6 or under any other process or order of any court.

7 Sec. 16.43.160. FEES. (a) The commission shall establish annual  
8 fees for the issuance and annual renewal of entry permits or interim-  
9 use permits to reflect the cost of administering this chapter. Fees  
10 collected under this section shall be paid into the general fund.

11 (b) Annual fees established under this section shall be no less  
12 than \$10 and no more than \$100 and shall reasonably reflect the differ-  
13 ent rates of economic return for different fisheries.

14 (c) The holder of an entry permit or interim-use permit who has  
15 a net family income falling within the Federal Social Security Adminis-  
16 tration poverty guidelines, adjusted by the commission to reflect  
17 appropriate cost-of-living differentials, shall be subject to a maximum  
18 annual fee of \$5.

19 Sec. 16.43.170. TRANSFER OF ENTRY PERMITS. (a) An entry permit  
20 is transferable only through the commission as provided in this section  
21 and sec. 180 of this chapter and under regulations adopted by the  
22 commission.

23 (b) Except as provided in (c) and (d) of this section, the holder  
24 of an entry permit may transfer his permit to another person or to the  
25 commission upon six months notice of intent to transfer under regula-  
26 tions adopted by the commission. No sooner than six months nor later  
27 than eighteen months from the date of notice to the commission, the  
28 holder of an entry permit may transfer his permit. If the proposed  
29 transferee, other than the commission, can establish present ability

1 to participate actively in the fishery, and the proposed transfer is  
2 otherwise consistent with the purposes of this chapter, the commission  
3 shall approve the transfer and reissue the entry permit to the trans-  
4 feree.

5 (c) If the number of outstanding entry permits for a fishery is  
6 greater than the optimum number of entry permits established under secs.  
7 290 - 300 of this chapter, the holder of an entry permit who qualified  
8 for that entry permit in a priority classification designated under  
9 sec. 250(c) of this chapter may transfer his permit only to the commis-  
10 sion. The transfer to the commission shall be made under the buy-back  
11 provisions of secs. 310 - 320 of this chapter.

12 (d) An applicant who is eligible for an entry permit under sec.  
13 160 of this chapter may elect to receive a permit subject to a five-  
14 year prohibition on any transfer under this section. Entry permits  
15 subject to the five-year prohibition on transfer may be transferred  
16 under the emergency transfer provision under sec. 180 of this chapter.

17 Sec. 16.43.180. EMERGENCY TRANSFERS. (a) The commission shall  
18 adopt regulations providing for the temporary transfer of an entry  
19 permit when sickness, injury, or other unavoidable hardship prevents  
20 the permittee from participating in the fishery.

21 (b) The commission shall adopt regulations providing for the  
22 temporary transfer of an entry permit upon the death of the permittee  
23 pending final disposition of the permit as a part of the permittee's  
24 estate.

25 ARTICLE 4. INITIAL ISSUANCE OF ENTRY PERMITS.

26 Sec. 16.43.200. ADMINISTRATIVE AREAS. (a) The commission shall  
27 establish administrative areas suitable for regulating and controlling  
28 entry into the commercial fisheries. The commission shall make the  
29 administrative areas reasonably compatible with the geographic areas

1 for which specific commercial fishing regulations are adopted by the  
2 Board of Fish and Game.

3 (b) The commission may modify or change the boundaries of adminis-  
4 trative areas when necessary and consistent with the purposes of this  
5 chapter.

6 Sec. 16.43.210. INTERIM-USE PERMIT; QUALIFICATIONS. (a) Pending  
7 the establishment of the maximum number of entry permits under sec. 240  
8 of this chapter and the issuance of entry permits under sec. 270 of this  
9 chapter, the commission shall issue interim-use permits under regula-  
10 tions promulgated by the commission for each fishery, to all applicants  
11 who can establish their present ability to participate actively in the  
12 fishery for which they are making application, except as provided under  
13 (e) of this section.

14 (b) Before the issuance of the maximum number of entry permits  
15 for a given fishery, the commission may issue an interim-use permit  
16 to an applicant who may later become eligible for an entry permit under  
17 sec. 270 of this chapter.

18 (c) To the extent that the commissioner of fish and game autho-  
19 rizes it under AS 16.05.050(11), the commission may grant an interim-  
20 use permit to a person to engage in the commercial taking from a fishery  
21 on an experimental basis.

22 (d) The sustained yield management and economic health of the  
23 following fisheries is severely impaired as a result, among other  
24 factors, of too many units of gear participating in the commercial har-  
25 vest:

- 26 (1) Bristol Bay registration area - drift gillnet fishery;  
27 (2) Cook Inlet registration area - drift gillnet fishery;  
28 (3) Prince William Sound registration area - drift gillnet  
29 fishery.

1 (e) For a fishery specified under (d) of this section, an interim-  
2 use permit may be issued for 1974 only to an applicant who has harvested  
3 the fishery resource commercially while holding a gear license issued  
4 under AS 16.05.536 - 16.05.670, before January 1, 1973.

5 Sec. 16.43.220. TERMS AND CONDITIONS OF INTERIM-USE PERMITS. (a)  
6 The commission shall adopt regulations specifying the dates and places  
7 of application, the procedures to be followed in renewal of the interim-  
8 use permit including the time, place of its renewal, and for any other  
9 purpose incident to the administration of interim-use permits for that  
10 fishery. An interim-use permit shall expire upon the final determina-  
11 tion of the holder's eligibility for an entry permit.

12 (b) The commission shall adopt regulations for the temporary  
13 transfer of interim-use permits to alleviate hardship caused by illness,  
14 disability, or death of an interim-use permit holder so that another  
15 person may operate the gear for the remainder of the season, or in the  
16 case of illness or disability, for the duration of the illness or dis-  
17 ability if that is shorter than the remainder of the season. Interim-  
18 use permits are otherwise nontransferable.

19 (c) The holder of an interim-use permit must have the permit in  
20 his possession at all times when engaged in the operation of the gear  
21 for which it was issued.

22 Sec. 16.43.230. DESIGNATION OF DISTRESSED FISHERIES. Pending  
23 the determination of maximum numbers of entry permits under sec. 240  
24 of this chapter and before the initial issue of entry permits under  
25 sec. 270 of this chapter, the commission shall designate as distressed  
26 fisheries those for which it estimates that the optimum number of entry  
27 permits will be less than the highest number of units of gear fished  
28 in that fishery during any one of the four years immediately preceding  
29 January 1, 1973.

1           Sec. 16.43.240. DETERMINATION OF THE MAXIMUM NUMBER OF ENTRY  
2 PERMITS FOR INITIAL ISSUE. (a) Except as provided in sec. 270(a) of  
3 this chapter, the maximum number of entry permits for a distressed  
4 fishery designated under sec. 230 of this chapter shall be the highest  
5 number of units of gear fished in that fishery during any one of the  
6 four years immediately preceding January 1, 1973.

7           (b) When the commission finds that a fishery not designated as  
8 a distressed fishery under sec. 230 of this chapter has reached levels  
9 of participation which require the limitation of entry in order to  
10 achieve the purposes of this chapter, the commission shall establish  
11 the maximum number of entry permits for that fishery.

12           Sec. 16.43.250. STANDARDS FOR INITIAL ISSUE OF ENTRY PERMITS.

13           (a) Following the establishment of the maximum number of units of gear  
14 for a particular fishery under sec. 240 of this chapter, the commission  
15 shall adopt regulations establishing qualifications for ranking appli-  
16 cants for entry permits according to the degree of hardship which they  
17 would suffer by exclusion from the fishery. The regulations shall  
18 define priority classifications of similarly situated applicants based  
19 upon a reasonable balance of the following hardship standards:

20           (1) degree of economic dependence upon the fishery, including  
21 but not limited to percentage of income derived from the fishery, reli-  
22 ance on alternative occupations, availability of alternative occupa-  
23 tions, investment in vessels and gear;

24           (2) extent of past participation in the fishery, including  
25 but not limited to the number of years participation in the fishery,  
26 and the consistency of participation during each year.

27           (b) The commission shall designate in the regulations those  
28 priority classifications of applicants who would suffer significant  
29 economic hardship by exclusion from the fishery.

1 (c) The commission shall designate in the regulations those  
2 priority classifications of applicants who would suffer only minor  
3 economic hardship by exclusion from the fishery.

4 Sec. 16.43.260. APPLICATION FOR INITIAL ISSUE OF ENTRY PERMITS.

5 (a) The commission shall accept applications for entry permits only  
6 from applicants who have harvested fishery resources commercially while  
7 participating in the fishery as holders of gear licenses issued under  
8 AS 16.05.536 - 16.05.670, prior to January 1, 1973.

9 (b) The commission shall establish the opening and closing dates,  
10 places and form of application for entry permits for each fishery. The  
11 commission may require the submission of specific verified evidence  
12 establishing the applicant's qualifications under the regulations adopted  
13 under sec. 250 of this chapter.

14 (c) When an applicant is unable to establish his qualifications  
15 for an entry permit by submitting the specific verified evidence re-  
16 quired in the application by the commission, he may request and obtain  
17 an administrative adjudication of his application according to the pro-  
18 cedures established in sec. 110(b) of this chapter. At the hearing he  
19 may present alternative evidence of his qualifications for an entry  
20 permit.

21 (d) Except as provided in (e) of this section, an applicant shall  
22 be assigned to a priority classification based solely upon his quali-  
23 fications as of January 1, 1973.

24 (e) When the commission establishes the maximum number of entry  
25 permits for a particular fishery under sec. 240 of this chapter after  
26 January 1, 1975, an applicant shall be assigned to a priority classi-  
27 fication based solely upon his qualifications as of January 1 of the  
28 year during which the commission establishes the maximum number of  
29 entry permits for the fishery for which application is made.

1           Sec. 16.43.270. INITIAL ISSUANCE OF ENTRY PERMITS. (a) The  
2 commission shall issue entry permits, for each fishery, first to all  
3 qualified applicants in the priority classifications designated under  
4 sec. 250(b) of this chapter and then to qualified applicants in order  
5 of descending priority classification, until the number of entry permits  
6 issued equals the maximum number of entry permits established under  
7 secs. 230 - 240 of this chapter for each fishery, except that no person  
8 within a priority classification specified under sec. 250(b) of this  
9 chapter may be denied an entry permit.

10           (b) If, within the lowest priority classification of qualified  
11 applicants to which some entry permits may be issued, there are more  
12 applicants than there are entry permits to be issued, then the alloca-  
13 tion of entry permits within that priority classification shall be by  
14 lottery.

15           (c) If, at the time entry permits are issued, some applicants are  
16 still appealing the findings of an administrative adjudication under  
17 sec. 260 of this chapter, a sufficient number of permits shall be re-  
18 served out of the permits to be issued to protect the rights of those  
19 applicants, assuming all the appeals will be resolved in favor of the  
20 applicants. In the event that all appeals are not resolved in favor  
21 of the applicants, the remaining entry permits shall be allocated to  
22 the next most qualified applicants as provided in (a) and (b) of this  
23 section.

24           ARTICLE 5. REDUCTION TO OPTIMUM NUMBER OF ENTRY PERMITS.

25           Sec. 16.43.290. OPTIMUM NUMBER OF ENTRY PERMITS. Following the  
26 issuance of entry permits under sec. 270 of this chapter, the commission  
27 shall establish the optimum number of entry permits for each fishery  
28 based upon a reasonable balance of the following general standards:

- 29           (1) the number of entry permits sufficient to maintain an

1 economically healthy fishery that will result in a reasonable average  
2 rate of economic return to the fishermen participating in that fishery,  
3 considering time fished and necessary investments in vessels and gear;

4 (2) the number of entry permits necessary to harvest the  
5 allowable commercial take of the fishery resource during all years in  
6 an orderly, efficient manner, and consistent with sound fishery manage-  
7 ment techniques;

8 (3) the number of entry permits sufficient to avoid serious  
9 economic hardship to those currently engaged in the fishery, considering  
10 other economic opportunities reasonably available to them.

11 Sec. 16.43.300. REVISIONS OF OPTIMUM NUMBER OF ENTRY PERMITS.

12 (a) The commission may increase or decrease the optimum number of entry  
13 permits for a fishery when one or more of the following conditions makes  
14 a change desirable considering the purposes of this chapter:

15 (1) an established long-term change in the biological condi-  
16 tion of the fishery has occurred which substantially alters the optimum  
17 number of entry permits permissible applying the standards set out in  
18 sec. 290 of this chapter;

19 (2) an established long-term change in market conditions  
20 has occurred, directly affecting the fishery, which substantially alters  
21 the optimum number of entry permits permissible under the standards set  
22 out in sec. 290 of this chapter.

23 (b) If the commission decreases the optimum number of entry  
24 permits for a fishery, the number of entry permits may be reduced only  
25 under the voluntary buy-back provisions set out in secs. 310 - 320 of  
26 this chapter.

27 Sec. 16.43.310. ESTABLISHMENT OF BUY-BACK FUNDS. (a) When the  
28 optimum number of entry permits is less than the number of entry permits  
29 outstanding in a fishery, the commission shall establish and administer

1 a buy-back fund for that fishery for the purpose of reducing the number  
2 of entry permits to the optimum number within no more than 10 years, at  
3 a rate to be established by the commission.

4 (b) For each buy-back fund, the commission shall adopt regulations  
5 establishing annual assessments on holders of entry permits of not more  
6 than seven per cent of the gross value of the total annual catch attri-  
7 butable to a holder's entry permit, except that the holder of a permit  
8 who has made no commercial landings in a given year will be assessed  
9 the average assessed all other holders of the same type of permit in  
10 that year. Assessments will be paid into the specific buy-back fund  
11 for which they are collected.

12 (c) Assessments need not equal annual buy-back fund expenditures  
13 within a particular fishery but shall be continued until the buy-back  
14 fund for that fishery has been reimbursed.

15 Sec. 16.43.320. ADMINISTRATION OF THE BUY-BACK PROGRAM. (a) The  
16 commission shall adopt regulations providing for the purchase of  
17 entry permits, vessels, and gear at fair market value with money accumu-  
18 lated in the buy-back fund for each fishery. The buy-back program for  
19 a fishery shall terminate when the number of entry permits is reduced  
20 to the optimum and the buy-back fund has been reimbursed.

21 (b) When entry permits subject to the restrictions in sec. 250(c)  
22 of this chapter and the vessels and gear related to those permits are  
23 offered for sale to the commission, the commission shall purchase the  
24 permits and related vessels and gear at fair market value, provided  
25 that sufficient funds are available in the appropriate buy-back fund.

26 Sec. 16.43.330. ISSUANCE OF NEW ENTRY PERMITS. (a) When the  
27 number of outstanding entry permits for a fishery is less than the  
28 optimum number established under sec. 290 of this chapter, the commis-  
29 sion shall issue new entry permits to applicants who are presently able

1 to engage actively in the fishery until the optimum number is reached.

2 (b) The commission shall determine equitable methods of issuance,  
3 as appropriate, under (a) of this section that assure the receipt of  
4 fair market value for the permits issued.

5 ARTICLE 6. GENERAL PROVISIONS.

6 Sec. 16.43.350. APPLICATIONS OF REGULATIONS OF BOARD OF FISH AND  
7 GAME. Nothing in this chapter limits the powers of the Board of Fish  
8 and Game, including the power to determine legal types of gear and  
9 the power to establish size limitations or other uniform restrictions  
10 applying to a certain type of gear. Holders of interim-use permits or  
11 entry permits issued under this chapter are subject to all regulations  
12 adopted by the Board of Fish and Game.

13 Sec. 16.43.360. PENALTIES. (a) A person who violates a provision  
14 of this chapter or a regulation promulgated under this chapter, upon  
15 conviction, is guilty of a misdemeanor and is punishable by a fine of  
16 not more than \$5,000 for a first conviction; a fine of not more than  
17 \$10,000 for a second conviction; and, for a third conviction, a fine  
18 of not more than \$10,000 as well as forfeiture of all interim-use  
19 permits and entry permits held by him and permanent loss of eligibility  
20 for an interim-use permits or for entry permits.

21 (b) A person who makes a false statement of a material fact in  
22 the application for an interim-use permit or an entry permit or in  
23 the application for a transfer under secs. 170 - 180 of this chapter,  
24 or a person who assists another by making a false statement of a  
25 material fact in support of the other person's application for issu-  
26 ance of an interim-use permit or an entry permit or transfer of an  
27 entry permit, upon conviction, is guilty of a misdemeanor and shall  
28 forfeit all interim-use permits and entry permits held by him and shall  
29 lose eligibility for interim-use permits and for entry permits for a

1 period of five years.

2 (c) If a permit holder is convicted of a violation of AS 43.20.-  
3 335 and the violation relates to income derived from commercial fishing  
4 under this title, he shall forfeit all interim-use permits and entry  
5 permits held by him and shall lose eligibility for interim-use permits  
6 and for entry permits for a period of five years.

7 Sec. 16.43.370. RECOMMENDATIONS TO THE LEGISLATURE. The commis-  
8 sion shall submit an annual report to the legislature. The report  
9 shall include but not be limited to the following:

10 (1) a progress report on the reduction of entry permits to  
11 optimum levels;

12 (2) recommendations for additional legislation relating to  
13 the regulation of entry into Alaska commercial fisheries.

14 Sec. 16.43.380. DEFINITIONS. In this chapter

15 (1) "commission" means Alaska Commercial Fisheries Entry  
16 Commission;

17 (2) "economically healthy fishery" means a fishery that  
18 yields a sufficient rate of economic return to the fishermen partici-  
19 pating in it to provide for, among other things, the following:

20 (A) maintenance of vessels and gear in satisfactory  
21 and safe operating condition; and

22 (B) ability and opportunity to improve vessels, gear  
23 and fishing techniques, including, when permissible, experimenta-  
24 tion with new vessels, new gear, and new techniques;

25 (3) "fishery" means the commercial taking of a specific  
26 fishery resource in a specific administrative area with a specific type  
27 of gear;

28 (4) "gear" means the specific apparatus used in the commer-  
29 cial harvest of a species, including but not limited to purse seines,

1 drift gill nets, set gill nets, and troll gear;

2 (5) "person" means a natural person and does not include  
3 a corporation, company, partnership, firm, association, organization,  
4 business trust, or society;

5 (6) "priority classification" means the allocation of poten-  
6 tial permit applicants into reasonable groupings of similarly situated  
7 applicants and the priority ranking of those groupings according to  
8 the extent to which they satisfy the standards of preference;

9 (7) "type of gear" means a customary and identifiable  
10 classification of gear and shall include:

11 (A) those classifications for which separate regulations  
12 are adopted by the Board of Fish and Game and for which separate  
13 gear licenses are required by AS 16.05.550 - 16.15.630; and

14 (B) distinct subclassifications of gear such as "power"  
15 troll gear and "hand" troll gear;

16 (8) "unit of gear" means the maximum amount of a specific  
17 type of gear which can be fished under a single gear license subject  
18 to regulations established by the Board of Fish and Game defining the  
19 legal requirements for that type of gear.

20 \* Sec. 2. AS 16.05.050 is amended by adding a new paragraph to read:

21 (11) authorize the holder of an interim-use permit under  
22 ch. 43 of this title to engage on an experimental basis in commercial  
23 taking of a fishery resource with vessel, gear, and techniques not  
24 presently qualifying for licensing under this chapter in conformity  
25 with standards established by the Alaska Commercial Fisheries Entry  
26 Commission.

27 \* Sec. 3. AS 16.05.250(14) is amended to read:

28 (14) establishment of the times and dates during which the  
29 issuance of fish and game licenses, permits and registrations and the

1 transfer of permits and registrations between registration areas, game  
2 management units or sub-units, is allowed; however, this paragraph does  
3 not apply to permits issued or transferred under ch. 43 of this title.

4 \* Sec. 4. This Act takes effect on the day after its passage and approval  
5 or on the day it becomes law without approval.

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